

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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NICK KOUTSOSTERGIOS,

Plaintiff,

-against-

THE CITY OF NEW YORK, Detective  
ANDREW SUAREZ Shield No. 4763, JOHN  
DOE 1 through 10, individually and in their official  
capacities (the name JOHN DOE being fictitious,  
as the true names are presently unknown),

Defendants.

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**FIRST AMENDED  
COMPLAINT**

Jury Trial Demanded

15-CV-897 (SLT)(VVP)

**NATURE OF THE ACTION**

1. This is an action to recover money damages arising out of the violation of plaintiff's rights under the Constitution.

**JURISDICTION AND VENUE**

2. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, and the Fourth and Fourteenth Amendments to the Constitution of the United States.

3. The jurisdiction of this Court is predicated upon 28 U.S.C. §§ 1331, 1343 and 1367(a).

4. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 (b) and (c).

### **JURY DEMAND**

5. Plaintiff demands a trial by jury in this action.

6. This Court has supplemental jurisdiction over the New York State claims pursuant to 28 U.S.C. § 1367.

### **PARTIES**

7. Plaintiff Nick Koutsostergios (“plaintiff”) is a resident of Kings County in the City and State of New York.

8. Defendant City of New York is a municipal corporation organized under the laws of the State of New York. It operates the New York City Police Department (“NYPD”), a department or agency of defendant City of New York responsible for the appointment, training, supervision, promotion and discipline of police officers and supervisory police officers, including the individually named defendants herein.

9. Defendant Detective Andrew Suarez, Shield No. 4763 (“Suarez”) at all times relevant herein, was an officer, employee and agent of the NYPD. Suarez is sued in his individual capacity.

10. At all relevant times defendants JOHN DOE 1 through 10 were police officers, detectives or supervisors employed by the NYPD. Plaintiff does not know the real name and shield numbers of defendants JOHN DOE 1 through 10.

11. At all relevant times defendants JOHN DOE 1 through 10 were acting as agents, servants and employees of defendant City of New York and the NYPD.

Defendants JOHN DOE 1 through 10 are sued in their individual and official capacities.

12. At all relevant times, all individual defendants were acting under color of state law.

### **STATEMENT OF FACTS**

13. On October 4, 2014 at approximately 5:00 p.m., plaintiff was walking down the driveway of his residence at 7702 20<sup>th</sup> Avenue, in Brooklyn, in the City and State of New York.

14. Three detectives, including Suarez, approached plaintiff and asked plaintiff if he knew where his sister was. Plaintiff replied that he did not.

15. The defendants asked to enter the plaintiff's residence. Plaintiff refused their entry, telling them he would speak to them in the driveway.

16. After one of the defendants told plaintiff that he would be taken "downtown" if he did not allow their entry, plaintiff allowed the defendants into his home.

17. Defendants continued to question plaintiff about his sister and plaintiff continued to explain to the defendants that he did not know where she was.

18. Plaintiff asked the defendants to please leave his home.

19. One of the defendants then told plaintiff that he was beginning to look like someone in a "video".

20. Plaintiff was placed in handcuffs and taken to the precinct.

21. Once at the precinct the detectives continued to quiz plaintiff about his sister.

22. At one point plaintiff was placed in a “line-up.”

23. Later that evening plaintiff was released from the precinct without any charges being pressed against him

24. Plaintiff suffered damage as a result of defendants’ actions. Plaintiff was deprived of his liberty and suffered emotional distress, mental anguish, fear, anxiety, embarrassment, humiliation, and damage to his reputation.

**FIRST CLAIM**  
**42 U.S.C. § 1983**

25. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

26. Defendants, by their conduct toward plaintiff alleged herein, violated plaintiff’s rights guaranteed by 42 U.S.C. § 1983, the Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States.

27. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages hereinbefore alleged.

**SECOND CLAIM**  
**False Arrest**

28. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

29. Defendants violated the Fourth and Fourteenth Amendments because they arrested plaintiff without probable cause.

30. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages alleged herein.

**THIRD CLAIM**  
**Failure To Intervene**

31. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

32. Those defendants who were present but did not actively participate in the aforementioned unlawful conduct observed such conduct, had an opportunity prevent such conduct, had a duty to intervene and prevent such conduct and failed to intervene.

33. Accordingly, the defendants who failed to intervene violated the First, Fourth, Fifth And Fourteenth Amendments.

34. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages alleged herein.

**PRAYER FOR RELIEF**

**WHEREFORE**, plaintiff respectfully requests judgment against defendants as follows:

- (a) Compensatory damages against all defendants, jointly and severally;
- (b) Punitive damages against the individual defendants, jointly and severally;
- (c) Reasonable attorneys' fees and costs pursuant to 28 U.S.C. § 1988; and
- (d) Such other and further relief as this Court deems just and proper.

DATED: July 15, 2015  
New York, New York

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/ss/  
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